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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,002	09/22/2003	Duane R. Pillar	061300-0364	1930
26371 7590 01/03/2007 FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202-5306			EXAMINER BROADHEAD, BRIAN J	
			ART UNIT	PAPER NUMBER
			3661	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/03/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/668,002

Applicant(s)

PILLAR ET AL.

Examiner

Brian J. Broadhead

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7, 13, 14 and 20-68 is/are pending in the application.
- 4a) Of the above claim(s) 20-30, 36-45 and 49-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 11-13-06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 13, 14, 31-35, 46, 47, 48, 55-58, 61, 62, 63, 66, 67, and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks et al., 2004/0230346, in view of the admitted prior art of 6421593.

3. As per claims 1-5, 13, 14, 31-35, 46, 47, 55-58, 61, 62, 66, 67, and 68, Brooks et al. disclose a transmission, the system is configured to immediately disable the output device when the transmission is in gear; a manual transmission; a chassis; body; the output device pertains to the body of the refuse vehicle; the output device is powered by a PTO; and the output device is a compactor in figure 2, and lines 20-25, on column 1, lines 1-7, on column 2, and lines 32-38, on column 2; disable the output when the vehicle reaches a threshold speed in figure 8; disable the output when in reverse(reverse is "in gear") in figure 7d; completing an operation started before being put into gear in paragraph 51; and the other combinations of conditions are a design choice within ordinary skill in the art in paragraph 47. Brooks et al. does not disclose the plurality of microprocessor interface modules with the communication network; and the transmission status information being stored in the interface modules. The admitted prior art of 6421593 teaches the plurality of microprocessor interface modules with the

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communication network; and the transmission status information being stored in the interface modules explicitly teaches the plurality of microprocessor interface modules with the communication network; and the transmission status information being stored in the interface modules. It would have been obvious to one of ordinary skill at the time the invention was made to use the admitted prior art in the invention of Brooks et al. because such modification would make the vehicle more redundant able to handle errors.

4. As per claims 48 and 63, Brooks et al. and the admitted prior art disclose the limitations as set forth above. They do not disclose the refuse handling is loading refuse into the vehicle. Brooks et al. does teach that their invention is applicable to any PTO system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the invention of Brooks et al. and Kempen with a refuse loader because it would allow custom configuration of the loader PTO system to prevent undesirable consequences as stated in paragraph 51 of Brooks et al.

5. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks et al., 2004/0230346, in view of the admitted prior art of 6421593 as applied to claims 1-5, 14, 31-35, 46, 47, 55-58, 61, 62, 66, 67, and 68 above, and further in view of Gaugush et al., 6269295.

6. Brooks et al., 2004/0230346, and the admitted prior art of 6421593, disclose the limitations as set forth above. They do not disclose moving the transmission out of gear when a brake is applies and moving into gear when the brake is disengaged. Gaugush et al. teach moving the transmission out of gear when a brake is applies and moving

into gear when the brake is disengaged on lines 15-20, on column 1. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the brake neutralization of Gaugush in the invention of Barbieri and the admitted prior art because such modification would reduce driver fatigue and prevent engine stalling.

7. Claims 59, 60, 64, and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks et al., 2004/0230346, in view of the admitted prior art of 6421593 as applied to claims 1-5, 14, 31-35, 46, 47, 48, 55-58, 61, 62, 63, 66, 67, and 68, above, and further in view of Scott, GB 2337137 A.

8. Brooks et al. and Kemper disclose the limitation as set forth above. They do not disclose any ranges of speeds to disable the output device. Scott teaches that over 20km/hr the vehicle of his invention cannot drive the PTO and the engine safely. It would have been obvious to one of ordinary skill in the art to use the threshold speeds in the claims because it is a design choice based on the vehicle used and would have an expected result that one of ordinary skill would know to use.

#### ***Response to Amendment***

9. The declaration filed on 10-18-06 under 37 CFR 1.131 has been considered but is ineffective to overcome the Brooke et al. reference.

10. The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the Brooks et al. reference. First, the declaration states that the invention was conceived and reduced to practice in the United States before the date of the reference, however, many of the exhibits produced appear to be from the Netherlands. It would be

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proper if the invention was reduced to practice partially in the Netherlands since it is a WTO country, but the declaration will need to state this fact. Second, the declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice "amounts essentially to mere pleading, unsupported by proof or a showing of facts" and, thus, does not satisfy the requirements of 37 CFR 1.131(b). In re Borkowski, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). In this case, how does a specification show actual reduction to practice? Are these specification sheets for an actual product that has been created or are they still part of the conception? Third, it would be helpful to explain who Gert Meilink is. This person is not a named inventor but appears to have produced the exhibits. This person may simply be an office assistant, but it would be helpful to know why the work appears to be produced by him/her.

### ***Response to Arguments***

11. Applicant's arguments filed 10-18-06 have been fully considered but they are not persuasive. In view of the questions with the declaration the prior art rejection is maintained.

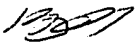
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Broadhead whose telephone number is 571-272-6957. The examiner can normally be reached on Monday through Friday.

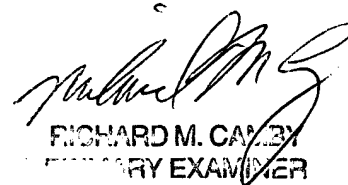
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 571-272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



BJB

 12/26/06  
RICHARD M. CALBY  
PRIMARY EXAMINER